

To: Sisk, Richard[Sisk.Richard@epa.gov]; Lensink, Andy[Lensink.Andy@epa.gov]
From: Way, Steven
Sent: Wed 7/17/2013 9:42:15 PM
Subject: Fw: Access Request and Red & Bonita Mine entry
[EPA.access.pdf](#)

Attorney Client/Ex. 5

Thanks

From: Todd Hennis <mogul1882@yahoo.com>
Sent: Wednesday, July 17, 2013 1:26:52 PM
To: Way, Steven
Subject: Re: Access Request and Red & Bonita Mine entry

Steve-

See attached.

Todd hennis

From: "Way, Steven" <way.steven@epa.gov>
To: "mogul1882@yahoo.com" <mogul1882@yahoo.com>
Cc: "Sisk, Richard" <Sisk.Richard@epa.gov>; "Holmes, Mike" <Holmes.Michael@epa.gov>
Sent: Tuesday, July 2, 2013 8:40 AM
Subject: Access Request and Red & Bonita Mine entry

Dear Todd,

As follow up to our conversation this morning and previous discussions regarding the renewal of the access agreement to property in the Cement Creek drainage, I am again requesting that you provide a written response to allow EPA continued access as requested in the attached agreement.

In response to your request to be allowed to enter the Red and Bonita adit during EPA's response action / removal evaluation activities, this will be acceptable with specific conditions. As you know, the conditions in an underground abandoned mine pose both risks to personal safety and potential for releases of hazardous substances to the environment. EPA is planning to manage discharges from the adit during the period while EPA entry is necessary to prevent or minimize an increase in the releases during the investigation. In addition, engineering controls are may be installed as necessary to provide safe breathing air. As such, the following conditions apply to you and your representatives being able to accompany the EPA team during this response action.

1. You must obtain a consent for access by the owner, David Hendrick, for yourself and your geologist to enter the Red and Bonita mine adit. (His phone is: 858-273-8517) I have spoken with Mr. Hendrick, and as I understand it he is willing to work with you to

provide access.

2. You and your geologist must provide written certification that they have completed the required OSHA and/or MSHA training for entering the site (i.e., going underground during EPA's response actions). In addition, you and your geologist must provide your own required health and safety equipment necessary for underground mine entry.
3. Entry into the mine during EPA's response actions onsite will be conducted only after the State DRMS Abandoned Mines Program personnel have assessed the conditions to be safe for additional personnel to enter. In addition, the period of entry will be limited based on the number of personnel that can safely enter the mine and by the capacity of the water management system to effectively control the additional loading of solids discharging during entry and after. Note that this may result in only one person being able to accompany the DRMS entry team during the entry activities. This decision will be made based on site conditions at the time of entry.
4. The schedule for entry is tentatively set for August 13 and 14, 2013. EPA will require access to the Success Placer in July to prepare the site for the investigation underground in August.

A second item that we discussed is the need to improve the road access to the Gold King 7-Level mine. The road has experienced severe erosion in the last several years, and it has become unsafe to enter the site with a vehicle. As you indicated, in order to perform the site investigations and for you to maintain the site, it is necessary to perform appropriate repairs and maintenance to the access road. As I indicated, if the metal culvert pipe (10 ft diameter) located on the Success Placer claim is useful in performing the repairs to the road at the Gold King Mine, the pipe may be used for that purpose. These repairs are considered necessary to continue assessing the on-going releases of hazardous substances from the Gold King 7-Level mine. The road improvement work is considered necessary and appropriate as part of the response actions at the Site.

EPA will be conducting the investigation and related activities as described in the Consent for Access form pursuant to the authority of Section 104 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. §9604. The agencies will be providing the necessary equipment and personnel to perform the work associated with this request. As such, EPA is not required to obtain a permit or license for any of the work performed entirely onsite (the areal extent of contamination and all suitable areas in very close proximity to the contamination necessary for implementation of the response action). See CERCLA, 42 U.S.C. §9621(e) or 40 C.F.R. Part 300.400(e).

If you have questions regarding this please contact me as soon as possible (mobile phone: 303-886-1640.) In order to plan for work during the week of July 15th, it is necessary that we receive your access approval by July 8, 2013. I look forward to hearing from you and thank you for your cooperation.

Sincerely,

Steven Way, OSC
Emergency Response Program

Attachment